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PERSONAL INJURY—MITIGATION OF DAMAGES—RECEIVING MONEY FROM OTHER SOURCES THAN WRONGDOER.—The fact that a person other than the wrongdoer, as a mere gratuity, pays to one injured as the result of his negligence a sum equal to the amount he would have earned had he been able to work during the period of his disability, is held, in *Nashville, C. & St. L. R. Co. v. Miller* (Ga.), 67 L. R. A. 87, not to mitigate the damages due by the wrongdoer to the injured party for lost time. The subject of mitigation of damages for personal injury by fact that injured person has received from some source other than the wrongdoer money because of the injury is treated in a note to this case.

ACCIDENT INSURANCE—FAILURE TO GIVE REQUIRED NOTICE OF ACCIDENT—WANT OF KNOWLEDGE DOES NOT EXCUSE.—Want of knowledge of the policy by one of two mine operators for whose benefit insurance against liability for accidents to employees has been effected by the other, and want of knowledge of the accident by the latter, are held, in *Deer Trail Consol. Min. Co. v. Maryland Casualty Co.* (Wash.), 67 L. R. A. 275, not to excuse failure to comply with the requirement in the policy that immediate notice of an accident be given to the insurer.

CONSTITUTIONAL LAW—DAMAGING PRIVATE PROPERTY—INJUNCTION WILL NOT LIE TO STAY IMPROVEMENT OF STREET—CONS. 1902, SEC. 58.—Under a constitutional provision requiring compensation in case property is damaged for public use it is held, in *Clemens v. Connecticut Mut. L. Ins. Co.* (Mo.), 67 L. R. A. 362, that injunction will not lie to stay the improvement of a public street, according to a grade lawfully adopted by the municipal corporation, until the damages are paid to the complaining property owner, where none of the property is taken, but is merely subjected to consequential injuries.

This question may arise under sec. 58, Cons. 1902.

TELEGRAPH COMPANY—OBSTRUCTION OF LINE—DUTY TO NOTIFY SENDER OF MESSAGE.—A telegraph company receiving a message for transmission is held, in *Swan v. Western U. Teleg. Co.* (C. C. A. 7th C.), 67 L. R. A. 153, to be bound to notify the sender in case the line is obstructed so that the message cannot be sent within a reasonable time, so as to give him an opportunity to avail himself of other modes of conveying the desired information to the sendee. A note to this case discusses the question of duty of telegraph company to notify sender of message if it cannot be promptly transmitted or delivered.

TELEPHONE COMPANY—PATRON'S AGREEMENT NOT TO USE LINE OF RIVAL COMPANY.—That a patron of a telephone company has broken his agreement not to make use of the lines of a rival company is held, in *Gwynn v. Citizen's Teleph. Co.* (S. C.), 67 L. R. A. 111, to give the former no right to refuse to grant him further service.

SALE OF STOCK IN BULK—SEC. 2460A, VA. CODE 1904.—A decision which is of general interest in view of the fact that the "bulk sale law" has now been

adopted in quite a large number of the United States [See sec. 2460a, Va. Code 1904], and is being actively urged upon the legislatures of other states, was recently rendered by the Appellate Division of the New York Supreme Court in the case of *Wright v. Hart*, 33 N. Y. L. J. 175, sustaining the constitutionality of the New York law (N. Y. Laws 1902, ch. 528) regulating the sales of stocks of merchandise in bulk. This Act provides, in effect, for the regulation of sales of merchandise either in bulk or out of the ordinary course of business, by requiring an inventory of the goods sold to be made at least five days before the sale, and by requiring that the creditors of the seller be notified of the contemplated sale at least five days before it is made. If these conditions are not observed the sale shall be fraudulent and void as against the creditors of the seller. In the case cited the plaintiff sought to have a sale of personal property set aside on the ground that there had not been a compliance with the statute. A demurrer raised the question of the constitutionality of the statute, and that was the sole question before the court. It was insisted by the defendant that the statute had the effect of depriving him of liberty and property without due process of law, and of denying him the equal protection of the laws of the state, in violation of both the State and Federal Constitutions. But, by a bare majority, the court upheld the constitutionality of the law, holding that the enactment was within the police power of the state. It is declared to be legislation of the same general character as that which requires that conditional sales shall be in writing and recorded, and that chattel mortgages shall be filed. "The statute only requires the exercise of good faith and reasonable diligence, and it is in our opinion a proper measure for regulating extraordinary sales and sales in bulk, so as to prevent a method of fraud which has become prevalent and widespread. If the vendor pays his debts, as already said, neither he nor the vendee need fear the statute. If, on the other hand, the vendor is unable or unwilling to pay his debts, then the statute puts a substantial obstacle in his way when he wants to dispose of his stock of merchandise in bulk or in an unusual manner, in order that he may himself receive the payment, to the exclusion of his creditors. It is therefore a salutary enactment promoting the general welfare, and not in conflict with the constitutional provisions which prescribe that the citizen shall not be deprived of his liberty or property without due process of law." Law Notes (May 1905).

In *Block v. Schwartz*, 76 Pac. 22, it was held that a similar statute was unconstitutional. See 10 Va. Law Reg. 270. And in *Sellers v. Hayes*, 72 N. E. 119, a *quære* was raised by the Indiana court as to the constitutionality of a similar enactment.

UNFAIR COMPETITION—TRADE NAMES—ALLEGED INFRINGEMENT—ADOPTION OF FAMILY NAME.—In *Howe Scale Co. v. Wyckoff, Seamans & Benedict*, decided April 24, 1905, 25 Sup. Ct. 609, the Supreme Court of the United States held: In the absence of contract, fraud, or estoppel, any man may use his own name, in all legitimate ways, and as the whole or a part of a corporate name.

The adoption and use of a proper name as part of a corporate name and trademark were not intended or likely to deceive, and there was nothing of substance shown in defendant's conduct in such use constituting unfair competition.